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REMARKS

This Amendment responds to the Office Action of December 30, 2004.

Claims 1-19 remain in this application. Claim 1 has been amended. Claims 1 and 19 are independent.

The specification has been amended to correct typographical errors. No new matter has been added.

The Office Action rejected claims 1-14 under 35 U.S.C. § 101 as directed to non-statutory subject matter. The Office Action rejected claims 1-19 under 35 U.S.C. §102(e) as being anticipated by Jones et al. (United States Patent No. 6,021,397). These bases for rejection are addressed below.

Claim Rejections Under 35 U.S.C. § 101

The Office Action rejected Claims 1-14 under 35 U.S.C. § 101 “because the claimed invention is directed to non-statutory subject matter.” (Office Action at 3.) Specifically, the Office Action stated that for a process claim to satisfy Section 101, “the recited process must somehow apply, involve, use, or advance the technological arts” and that claim 1 “does not recite any structure or functionality to suggest that a computer performs the recited claims.” (*Id.* at 3-4.) Applicant believes that original Claims 1-14 are addressed to statutory subject matter under 35 U.S.C. § 101 because the subject matter of those claims produces “a useful, concrete and tangible result.” *State Street Bank & Trust v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373, 47 USPQ2d 1596,

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1601-02 (Fed. Cir. 1998), *cert. denied*, 525 U.S.1093 (1999). There is no requirement under Section 101 that claimed subject matter be limited to the "technological arts."

For purposes of expediting the prosecution of this application, however, Applicant has amended Claim 1, without prejudice, to recite that a computer performs at least one step in that claim. The specification supports the amendment. (See, e.g., Specification at pp. 1-3, 27-28.) This amendment is believed to bring independent Claim 1 and all claims dependent thereon within the "technological arts" to overcome the Section 101 rejection.

Claim Rejections Under 35 U.S.C. § 102(e) Based On Jones et al.

When a trader buys and sells financial instruments on behalf of more than one investment portfolio, it is necessary to allocate the number of instruments traded among those portfolios in situations where the number of instruments traded does not satisfy an outstanding trading demand. Manually allocating trades is a complex and time-consuming process. Claims 1-19 are directed to various aspects of methods and systems for using computers to achieve a computer-implemented trade allocation solution.

For example, currently amended Claim 1 recites:

A computer-implemented method of allocating a trade of a number of financial instruments, the method comprising the steps of:

receiving at an allocating management system from an order management system a message descriptive of a trade of a financial instrument, the message comprising a financial instrument identifier and a size of the trade;

determining a risk class associated with the identified financial instrument;

determining a first plurality of portfolios associated with the risk class and a target ratio for each of the portfolios; and

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allocating the trade of the financial instrument among each of the first plurality of portfolios based on the target ratio associated with each of said portfolios,

wherein at least one of said steps is performed by a computer.

Applicant respectfully submits that Jones et al. has nothing to do with solving the problem of allocating the trade of financial instruments among different investment portfolios. Jones et al. is directed to solving the completely different problem of developing a system to advise investors how to select investments for their investment portfolios from a set of available types of financial products (e.g., cash, bonds, equities, foreign equities) and classifications (e.g., value, growth, market capitalization) to allocate their investments to best enable them to reach specific financial goals (e.g., retiring with a retirement income of a particular number, putting a child through college). (Jones et al. at Col. 1, l. 13-15; Col. 2, l. 46-66; Col. 5, l. 51- Col. 7, l. 10; Col. 8., l. 50 –Col. 9, l. 55; Col. 11, l. 35 – Col. 12, l. 32.)

Accordingly, Jones et al. is not directed to any system allocating the trade of financial instruments among plural portfolios. Therefore, Jones et al. does not disclose, teach or suggest receiving at an allocating management system from an order management system a message descriptive of a trade of a financial instrument, the message comprising a financial instrument identifier and a size of the trade; determining a risk class associated with the identified financial instrument; determining a first plurality of portfolios associated with the risk class and a target ratio for each of the portfolios; and allocating the trade of the financial instrument among each of the first

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plurality of portfolios based on the target ratio associated with each of said portfolios as recited in Claim 1.

Claim 19 recites:

A trade allocation system comprising:

a computer system comprising a network interface configured to receive trading messages from an order management system;

a first database coupled to the computer and comprising first data associating each of a plurality of portfolios with a risk class and a target ratio;

a second database storing instruction to configure the computer system to:

receive from the order management systems a message descriptive of a trade of a financial instrument, the message comprising a financial instrument identifier, a size of the trade, and a risk class identifier;

query the first database to determine a first plurality of portfolios that are associated with a risk class identified by the risk class identifier;

query the first database to determine a target ratio for each of the first plurality of portfolios; and

allocate the trade of the financial instrument among each of the first plurality of portfolios based on the determined target ratio for each of said portfolios.

Jones et al. does not disclose, teach or suggest a computer system comprising a network interface configured to receive trading messages from an order management system; a first database coupled to the computer and comprising first data associating each of a plurality of portfolios with a risk class and a target ratio; a second database storing instruction to configure the computer system to: receive from the order management systems a message descriptive of a trade of a financial instrument, the

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message comprising a financial instrument identifier, a size of the trade, and a risk class identifier; query the first database to determine a first plurality of portfolios that are associated with a risk class identified by the risk class identifier; query the first database to determine a target ratio for each of the first plurality of portfolios; and allocate the trade of the financial instrument among each of the first plurality of portfolios based on the determined target ratio for each of said portfolios as recited in claim 19.

Applicant therefore respectfully requests that the rejections based on Jones et al. be withdrawn.

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Conclusion

In light of the foregoing amendments and remarks, Applicant respectfully submits that claims 1-19 are patentably distinct over the prior art of record, that the application is in proper form for allowance of all claims, and earnestly solicits a notice to that effect.

Respectfully submitted,

PROSKAUER ROSE LLP
Attorneys for Applicants

By John C. Stellabotte

John C. Stellabotte
Reg. No. 47,969

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PROSKAUER ROSE LLP
1585 Broadway
New York, NY 10036-8299
Telephone: (212) 969-3000